

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:09CV89-1-W

3:05CR297

DONNELL ALEXANDER TAYLOR,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

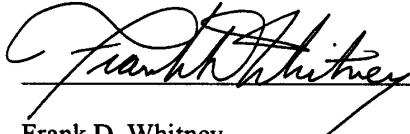
THIS MATTER comes before the Court upon Petitioner’s “Motion to Vacate and Set Aside Collateral Order, Judgment or Decree” pursuant to Rule 60(b)(4) (Doc. No. 6), filed October 28, 2009.

On March 6, 2009, Petitioner filed a Motion to Vacate, Set Aside, or Correct Sentence. On July 20, 2009, after conducting an initial review, this Court dismissed Petitioner’s Motion to Vacate. Petitioner has now filed a document asking the Court to reconsider¹ the dismissal of his Motion to Vacate. As the basis for his motion Petitioner asserts that this Court erred in not holding an evidentiary hearing. An evidentiary hearing was not warranted in this case.

¹ Petitioner’s Motion alleges a defect in the collateral review process and so the claim is properly raised in a Motion to Reconsider. See United States v. Winestock, 340 F. 3d 200, 207 (4th Cir. 2003)(noting difference between alleged defects in collateral review process and substantive claims and the different treatment of each in motions to reconsider).

THEREFORE, IT IS HEREBY ORDERED that Petitioner's "Motion to Vacate and Set Aside Collateral Order, Judgment or Decree" (Doc. No. 6) is **DENIED**.

Signed: November 6, 2009



Frank D. Whitney
United States District Judge

